

United States District Court
Central District of California

THE GARMON CORPORATION, a
California corporation

Plaintiff,

v.

HEALTHYPETS, INC., a California
corporation; MANDEEP GHUMMAN,

Defendants.

Case No. 5:18-cv-0809-ODW(SHK)

**ORDER DENYING PLAINTIFF'S
EX PARTE APPLICATION TO
EXPEDITE HEARING ON MOTION
FOR CIVIL CONTEMPT AND
SANCTIONS [40]**

On June 13, 2018, Plaintiff, The Garmon Corporation, a California corporation (“TGC”) applied ex parte for an expedited briefing schedule and immediate hearing on TGC’s Motion for Civil Contempt and Sanctions (“Contempt Motion”). (ECF Nos. 39 (Contempt Motion); 40 (Ex Parte Application).) Defendants opposed the Application. (ECF No. 46.) The Court read and considered the moving papers, and opposition and **DENIES** TGC’s Application. (ECF No. 40.)

An ex parte application must “establish why [a] motion for the ultimate relief requested cannot be calendared in the usual manner. In other words, it must show why the moving party should be allowed to go to the head of the line in front of all other litigants and receive special treatment.” *Mission Power Eng’g Co. v. Cont’l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995). “First, the evidence must show that

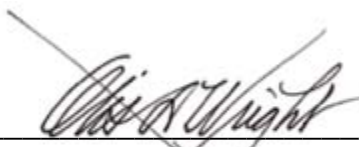
1 the moving party's cause will be irreparably prejudiced if the underlying motion is
2 heard according to regular noticed motion procedures. Second, it must be established
3 that the moving party is without fault in creating the crisis....” *Id.* Denial of an ex
4 parte application is also appropriate if the substantive request underlying the
5 application is without merit. *Id.*

6 To the extent TGC was suffering immediate, and irreparable harm, from the
7 unauthorized sale of *one* of its products after the Court entered the preliminary
8 injunction, the Declaration of Defendants’ Vice President of Sales, Jesse Padilla,
9 establishes that the harm has since stopped. (Declaration of Jesse Padilla ¶¶ 7–8, ECF
10 No. 46-1.) Accordingly, TGC has not met its high burden. *See Mission*, 883 F. Supp.
11 at 492.

12 The Court reminds Defendants of their obligation to comply with the Court’s
13 preliminary injunction. (ECF No. 38.) Failure to comply with the Court’s Order will
14 result in significant sanctions. To the extent TGC identifies any violations of the
15 injunction after this Order, it should notify the Court, and the Court will respond
16 accordingly.
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20 **IT IS SO ORDERED.**

21 June 15, 2018

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24 **OTIS D. WRIGHT, II**
25 **UNITED STATES DISTRICT JUDGE**
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